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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICIA TONI KOEPESELL,
an individual,

NO. CIV. S-11-1772 LKK/DAD

Plaintiff,

v.

O R D E R

USAA aka UNITED SERVICES
AUTOMOBILE ASSOCIATION, a
form of business unknown and
USAA FEDERAL SAVINGS BANK,
a form of business unknown,

Defendants.

_____ /

Currently before the court is defendants United Service
Automobile Association's ("USAA") and USAA Federal Savings Bank's
motion to dismiss USAA from the above captioned case and to dismiss
several of plaintiff's claims against USAA Federal Savings Bank for
failure to state a claim. This motion is set to be heard on August
29, 2011. On August 15, 2011, plaintiff filed an opposition to the
motion in which she expressed her intention to file an amended
complaint by August 22, 2011. Plaintiff also requested that the

1 court deny defendants' motion to dismiss as moot. The court,
2 however, does not find it prudent to deny the motion before
3 plaintiff's amended complaint is filed.


4 For the foregoing reasons, the court orders as follows:

- 5 (1) Hearing on defendants' motion to dismiss (Doc. No. 9),
6 which is currently set for August 29, 2011, is VACATED.
- 7 (2) Plaintiff shall file her first amended complaint by
8 August 22, 2011. Failure to file the first amended
9 complaint by this date will result in the court granting
10 defendants' motion to dismiss with prejudice.
- 11 (3) The court shall issue a further order disposing of
12 defendants' motion after plaintiff either timely files
13 her first amended complaint or fails to timely file the
14 amended pleading.

15 IT IS SO ORDERED.

16 DATED: August 17, 2011.

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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT